

United States District Court
For the Northern District of California

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5 VALLAVISTA CORPORATION,
6 a California corporation,

7 Plaintiff,

8 v.
9 AMAZON.COM, INC., a Delaware corporation,
10 TARGET CORPORATION, a Minnesota
11 corporation, EBAGS, INC., a Colorado
12 corporation, EMPORIUM LEATHER
13 COMPANY, INC., a New Jersey corporation,
14 doing business as ROYCE LEATHER, and
15 FASHION HANDBAGS, INC., a Nevada
16 corporation, doing business as BO BO BAGS,

17 Defendants.

18 No. C 07-05360 WHA

19 **ORDER DENYING MOTION
20 TO STAY**

21 In this trademark infringement action, defendant Target Corporation moves to stay all
22 proceedings pending the outcome of a trademark cancellation proceeding filed with the USPTO.
23 This action was filed on October 19, 2007, by plaintiff Vallavista Corporation alleging
24 infringement of its United States Trademark Registration No. 2,008,495 for the mark “Taxi
25 Wallet.” Fact discovery has since completed and trial is scheduled to proceed on January 5,
26 2009. According to Target, on September 23, 2008, it discovered that plaintiff made fraudulent
27 statements to the USPTO during the prosecution of the ’495 mark. More specifically, Target
28 alleges that plaintiff submitted affidavits to the USPTO that falsely represented that the ’495
mark had previously been used in connection with the sale of goods. Target’s evidence is based
on the deposition transcript of Alicia Klein, plaintiff’s principal. Target then filed a petition
with the USPTO to cancel the ’495 mark and now, a little over two months before trial is

1 scheduled to begin, moves to stay. The motion is **DENIED**. Significantly, Target has given no
2 credible reason why this Court is not in a better position to evaluate all claims in this matter —
3 including the alleged misrepresentations made by plaintiff to the USPTO. In addition, the
4 ground for Target's petition to cancel are uncertain at best. Staying this case pending a decision
5 by the USPTO, in what will no doubt be a long and delayed process, would simply be
6 imprudent. Fact discovery has closed and this case is ready to move forward. Target will be
7 given leave to amend its answer to add its newly discovered counterclaim, but no new summary
8 judgment motion should be filed.

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IT IS SO ORDERED.

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11 Dated: October 27, 2008.



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WILLIAM ALSUP
UNITED STATES DISTRICT JUDGE